

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

DANIEL E. RUFF,)	No. CV-F-05-631 OWW/GSA
)	
)	ORDER DIRECTING PLAINTIFF TO
Plaintiff,)	LODGE PROPOSED ORDER RE
)	PREJUDGMENT INTEREST IN
vs.)	COMPLIANCE WITH MEMORANDUM
)	DECISION FILED ON NOVEMBER
)	30, 2009
COUNTY OF KINGS, et al.,)	
)	
Defendants.)	
)	
)	

The Memorandum Decision filed on November 30, 2009, (Doc. 226), ruled:

Here, prejudgment interest will be awarded from August 25, 2004 to November 23, 2009, less the periods from December 2, 2005, through July 5, 2007, and from December 17, 2007, through August 4, 2008, because of Plaintiff's inexcusable delay in the prosecution of this action. The rate for prejudgment interest shall be determined from the fluctuating 52-week T-Bill rate in effect during this period. Plaintiff shall prepare and lodge within five (5) days an Order setting forth the calculation of and amount of prejudgment interest to be awarded in accordance with this Memorandum Decision.

1 On November 30, 2009, Plaintiff lodged a proposed Order. The
2 proposed Order provides in relevant part:

3 2. Based on the August 25, 2004 inception date, the
4 applicable rate of interest is 1.98%. See
5 <http://www.federalreserve.gov/releases/h1520040823>.
This is the average one year Treasury Bill rate in
effect as of the inception date.

6 3. Based on the time period of accrual and the
7 applicable interest rate, the accrued prejudgment
8 interest on the \$200,000 judgment is \$12,116.78. This
calculation assumes that interest is compounded on a
yearly basis at the applicable rate, which is the
manner prescribed by 28 U.S.C. § 1961.

9 Because the proposed Order applies a single "average" rate
10 to the entire period, the proposed Order does not comply with the
11 Memorandum Decision's holding that a fluctuating interest rate
12 applies during the applicable period interest is to be recovered.
13 Plaintiff shall prepare and lodge within five (5) days a proposed
14 Order setting forth the calculation of and amount of prejudgment
15 interest to be awarded based on the fluctuating interest rate in
16 accordance with law.

17 IT IS SO ORDERED.

18 Dated: December 3, 2009

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE